

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

DR. MORGAN REYNOLDS on behalf of the
UNITED STATES OF AMERICA,

Plaintiff,

v.

SCIENCE APPLICATIONS INTERNATIONAL CORP.; APPLIED RESEARCH ASSOCIATES, INC.; BOEING; NuSTATS; COMPUTER AIDED ENGINEERING ASSOCIATES, INC.; DATASOURCE, INC.; GEOSTAATS, INC.; GILSANZ MURRAY STEFICEK LLP; HUGHES ASSOCIATES, INC.; AJMAL ABBASI; EDUARDO KAUSEL; DAVID PARKS; DAVID SHARP; DANIELE VENEZANO; JOSEF VAN DYCK; KASPER WILLIAM; ROLF JENSEN & ASSOCIATES, INC.; ROSENWASSER/GROSSMAN CONSULTING ENGINEERS, P.C.; SIMPSON GUMPERTZ & HEGER, INC.; S.K. GHOSH ASSOCIATES, INC.; SKIDMORE, OWINGS & MERRILL, LLP; TENG & ASSOCIATES, INC.; UNDERWRITERS LABORATORIES, INC.; WISS, JANNEY, ELSTNER ASSOCIATES, INC.; AMERICAN AIRLINES; SILVERSTEIN PROPERTIES; and UNITED AIRLINES.

Defendants.

Case No. 07CV4612
(GBD)

AFFIRMATION OF PHILIP C. SEMPREVIVO

I, Philip C. Semprevivo, an attorney duly admitted to practice law in the State of New York, including the U.S. District for the Southern District of New York, certifies the following under penalty of perjury:

1. I am a member of Biedermann, Reif, Hoenig & Ruff, P.C., attorneys for defendant Underwriters Laboratories, Inc. ("UL") in the within matter. As such, I am familiar with the facts and circumstances surrounding this action based upon a review of the file maintained by this law office.

2. I submit this Affirmation in addition to Notice of Joinder filed on February 4, 2008, joining the reply to Relator's opposition to defendant's motions to dismiss filed on behalf of defendant Applied Research Associates, Inc. ("ARA") PURSUANT TO Rules 12(b)(1), 12(b)(6), and 9(b) of the Federal Rules of Civil Procedure.

3. In short, Relator utterly fails to address the legal arguments articulated in Defendant Applied Research Associates, Inc.'s ("ARA" or "Defendants") Motion to Dismiss, previously joined by UL. The collective opposition papers are nothing more than Relator's attempt to obfuscate the legal issues at hand with absurd, irrelevant, and fantastic "factual" assertions. They, however, fail to change the simple fact that his Complaint is deficient. Jurisdiction does not exist, and this litigation must be dismissed.

4. Indeed, the numerous baseless factual assertions provided by Relator in his accompanying affidavit do nothing to remedy the legal inadequacies of Relator's Complaint or to begin to address the legal arguments raised by Defendants which require dismissal of this litigation.

* Relator's claims are precluded by the first to file bar because Relator has not demonstrated a single material difference between his complaint and Dr. Wood's Complaint;

* Relator's allegations have been publicly disclosed and Relator is not an original source of the allegations in his Complaint; Relator's allegations are based

entirely on publicly disclosed information, and Relator does not allege that he has direct or independent knowledge of his allegations such that he would qualify as an original source, and

* Relator's Complaint fails to identify any particulars regarding the alleged fraud.

6. Relator's Opposition does not answer any of the legal arguments articulated. To the extent he even acknowledges the points, Relator, at best, merely makes conclusory statements with no legal proof or points to support such conclusions, whatsoever. See e.g. paragraphs 2 and 10 of the January 30, 2008 Replacement Affirmation of Attorney Jerry Leaphardt. And, notably, by way of paragraph 11 of Attorney Leaphardt's Affirmation, Relator concedes that he does not have the particulars to plead a case of Fraud.

7. In sum, the Court has been provided with an exorbitant amount of irrelevant "factual" information -- and offer by Relator which fails to counter the legal and procedural arguments raised in the Defendants' motions to dismiss. And, sadly Relator's Opposition amounts to nothing more than further improper harassment of the defendants.

WHEREFORE, for all the foregoing reasons, in addition to all of the arguments set forth in the ARA Reply, defendant Underwriting Laboratories, Inc. seeks an Order:

- (a) dismissing the complaint of the Plaintiff/Relator with prejudice;
- (b) awarding Underwriting Laboratories, Inc. attorneys' fees and expenses; and

(c) granting such other and further relief as this Court deems just and proper.

Dated: February 5, 2008

Respectfully submitted,

BIEDERMANN, REIF, HOENIG & RUFF, P.C.

By: 

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*Attorneys for Defendant Underwriters
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CERTIFICATION OF SERVICE

I hereby certify that on February 5, 2008, I electronically filed the foregoing Declaration with the Clerk of Court using the CM/ECF system, which will send notification of filing to the following e-mail addresses:

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And I hereby certify that I have mailed or served the document or paper to the following non-CM/ECF participants by U.S. Mail, first class, postage prepaid and addressed to the following:

None.

Dated: February 5, 2008

BIEDERMANN, REIF, HOENIG & RUFF, P.C.

By:



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